

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 03-58
Table of Allotments,)	RM-10608
FM Broadcast Stations.)	
(Pelham and Meigs, Georgia))	

MEMORANDUM OPINION AND ORDER

Adopted: November 12, 2003

Released: November 14, 2003

By the Assistant Chief, Audio Division:

1. The Audio Division has before it a Petition for Reconsideration filed by Mitchell County Television ("Mitchell") directed to the *Report and Order* in this proceeding.¹ For the reasons discussed below, we dismiss the *Petition for Reconsideration* filed by Mitchell.

2. In response to a petition filed by Mitchell, the Commission issued a *Notice of Proposed Rule Making* proposing the reallocation of Channel 222A from Pelham, Georgia, to Meigs, Georgia, and modification of the authorization for Station WQLI accordingly. The *Notice* explained that the reallocation would remove the potential sole local service from Pelham but not the removal of an existing service since Station WQLI had not commenced operation. On June 18, 2003, the Commission adopted a *Report and Order* granting the reallocation of Station WQLI from Pelham to Meigs with an effective date of August 7, 2003. Public Notice of this action was published in the *Federal Register* on July 7, 2003.²

3. In the Petition for Reconsideration Mitchell states that at the time the *Notice* was released, Station WQLI was not constructed but after the *Report and Order* was released, Station WQLI commenced operation in Pelham, Georgia. Mitchell further states that it was not aware that a rulemaking fee would apply in this proceeding or that a new Form 301 was necessary as the reallocation would not improve the existing facility but would merely provide service for Meigs. Because of the fees involved, Mitchell now requests the Commission to reconsider its action in this proceeding and allow Station WQLI to remain licensed to Pelham.

3. Section 1.429 of the Commission's Rules sets forth the limited provisions under which the Commission will reconsider a rulemaking action. Under Section 405 of the Communications Act and Section 1.429(d) of the Rules, Petitions for Reconsideration shall be filed within 30 days from the date of public notice

¹ *Pelham and Meigs, Georgia*, 18 FCC Rcd 12187 (Med. Bur. 2003).

² 68 FR 40186, July 7, 2003.

of such action, as that date is defined in Section 1.4(b) of the Rules.³ In the case of notice and comment rulemaking proceedings, the date of publication in the *Federal Register* establishes public notice. As the *Report and Order in MB Docket No. 03-58* was published on July 7, 2003, Petitions for Reconsideration would be accepted if they were filed on or before August 8, 2003. The Petition for Reconsideration filed by Mitchell was not filed until September 9, 2003, and is considered untimely. Even if we were to consider this Petition for Reconsideration, reconsideration is warranted only if the petitioner cites error of fact or law, or has presented facts or circumstances which raise substantial or material questions of fact which otherwise warrant Commission review of its prior action. Mitchell has not shown any errors with respect to the facts or law nor has it made a showing that acceptance of the late-filed Petition for Reconsideration would benefit the public. Mitchell's sole argument is its objection to paying the fees required for granting its Petition for Rule Making requesting a change of community of license for Station WQLI from Pelham, Georgia, to Meigs, Georgia.

4. Accordingly, IT IS ORDERED, That the Petition for Reconsideration filed by Mitchell County Television IS DISMISSED.

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact Kathleen Scheuerle, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

³ 47 U.S.C. § 405, 47 C.F.R. § 1.429(d)

